#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4159 OF 2006

Suraj Mahavir Modi .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.V.A.Jalan for applicant

Mr.Y.M.Nakhwa, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th December 2006

P.C.

. Applicant is arrested on 16th January 2006 in connection with C.R.No.II-4 of 2006 for offences punishable under section 366A, 372, 373

and 34 of I.P.C. read with sections 3 to 5 and 7(1)(b) of Prevention of Immoral Traffic Act.

2. Applicant had preferred an application for bail in the Court of the learned Additional Sessions Judge at Thane.

4. Submission of the applicant's Advocate is that the applicant pointed out that investigations are complete and the charge sheet is also filed and the main accused has been enlarged on bail. Therefore, on the ground of parity, the applicant's application may be granted.

5. Learned Additional Sessions Judge has rejected the application principally on the ground that the applicant does not reside in the State of Maharashtra and ordinarily residing in the State of Zharkhand. He has no property either moveable or immovable in Thane Dist. or in Mumbai and in such circumstances, he is

disentitled to bail.

6. On the last occasion, applicant's Advocate took instructions and made a statement that he would file an affidavit of a local surety. Accordingly, an affidavit of Vijay Lakhu Yadav has been filed. The deponent is present in Court today. He states that the applicant is related to him. Applicant is his nephew. Applicant was residing with him for the last two years and even prior to arrest. Even, the deponent is from the same State of Zharkhand but the deponent has pointed out that now he permanently resides at Mira Road at the address mentioned in the cause title of the application. The same is that of the premises exclusively belonging to and owned by the deponent. The deponent resides there with his family and school going children for the last five years. He has business premises at Mira Road. He is income tax payee and has undertaken to keep the applicant present at the trial before the trial court on

the dates of hearing.

7. In the light of this affidavit and the undertaking given therein by the deponent, in my view, the apprehension expressed by the prosecution before the learned Sessions Judge would not survive. The applicant even otherwise is entitled to bail on the ground of parity which fact is not disputed. Learned Advocate for the applicant, on instructions, makes a statement that applicant would not enter the building Govind Tower. Applicant would not also leave Thane Dist. and Mumbai without prior permission of trial court. In such circumstances, following order would meet the ends of justice.

i) The applicant arrested in connection with C.R.No.II-4 of 2006 registered with Mira Road Police Station shall be enlarged on bail in the sum of Rs.10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer once a week on every Saturday between 5.00 p.m. and 7.00 p.m. till conclusion of the trial. Applicant shall not enter Govind Tower Building and will not leave Thane Dist. and Mumbai without prior permission of the trial court.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in

above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)